

Filed for intro on 04/05/95  
House Bill \_\_\_\_\_  
By \_\_\_\_\_

Senate No. SB1859  
By Holcomb

AN ACT to amend Chapter 76 of the Private Acts of 1917, as amended by Chapter 54 of the Private Acts of 1969, Chapter 6 of the Private Acts of 1973, Chapter 235 of the Private Acts of 1976, Chapter 292 of the Private Acts of 1978, Chapters 244 and 284 of the Private Acts of 1980, and all other acts amendatory thereto, relative to the Charter of the City of Kingsport.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 76 of the Private Acts of 1917, as amended by Chapter 54 of the Private Acts of 1969, Chapter 6 of the Private Acts of 1973, Chapter 235 of the Private Acts of 1976, Chapter 292 of the Private Acts of 1978, Chapters 244 and 284 of the Private Acts of 1980, and all other acts amendatory thereto, is amended by deleting Article IV, Section 2, in its entirety and substituting instead the following:

Section 2. Procedure for passage; emergency ordinances; amendments. Before its adoption every ordinance shall be presented on three (3) different days in open session and read in its entirety on the first of those days; not less than seven (7) days shall elapse between the first and third presentation during which time it shall remain on file with the recorder for public inspection. Any ordinance not so read shall become null and void. However, at the discretion of the board of mayor and aldermen, the reading of

the ordinance may be dispensed with, provided a copy of said proposed ordinance shall have been lodged with each board member and three (3) copies lodged with the recorder at least three (3) days prior to the date of the meeting at which said ordinance shall be presented for the first time.

No ordinance shall take effect until fifteen (15) days after its final passage except in the case of an emergency ordinance. Each ordinance shall be signed by the mayor or by three (3) board members and the caption thereof shall be entered upon the minutes of the board of mayor and aldermen.

An emergency ordinance may be enacted upon the date of its introduction; however, it shall contain the statement that an emergency exists and specify with particularity the facts and reasons constituting such emergency. The unanimous vote of all members of the board present, and not less than five (5) members shall be required to pass an emergency ordinance.

Upon presentation for the first reading and second reading, approval or disapproval may be by voice vote. Upon presentation for third and final reading, or for approval of an emergency ordinance, the roll shall be called and the responses entered upon the journal of the proceedings; provided however, that upon the request of any member, the roll shall be called at any presentation and the responses shall be entered upon the journal of the proceedings.

No ordinance making a grant, renewal or extension of a franchise or other special privilege, or regulating the rate to be charged for its services by any public utility, shall ever be granted, renewed or extended as an emergency ordinance.

No ordinance shall be amended except by a new ordinance.

SECTION 2. Chapter 76 of the Private Acts of 1917, as amended, is further amended by deleting Article IX, Section 2, in its entirety and substituting instead the following:

Section 2. Appointment of assistants, employees; powers and duties enumerated; salary. The city attorney shall appoint such assistants and employees as

may be provided by ordinance and shall, except as otherwise provided by resolution or ordinance, direct the management of all litigation in which the city is a party; he shall represent the city in all legal matters and proceedings in which the city is a party or interested, or in which any of its officers are officially interested; he shall attend all meetings of the board of mayor and aldermen, advise the board of mayor and aldermen and committees or members thereof, the city manager, and the heads of all departments and divisions as to all legal questions affecting the city's interest; and he shall approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the city. He shall direct the functions of the prosecuting attorney in the city court if, in his discretion, a prosecuting attorney is needed. He shall receive a salary to be fixed by the board of mayor and aldermen.

SECTION 3. Chapter 76 of the Private Acts of 1917, as amended, is further amended by deleting Article XX, Section 1, in its entirety and substituting instead the following:

Section 1. Designated work to be by contract; advertisement for bids; bond of contractor; rejection of bids, re-advertisement; work by city forces.

(a) All contracts for more than fifteen thousand dollars (\$15,000) shall be awarded to the lowest responsible compliant bidder in the best interest and advantage to the City of Kingsport, after publication, advertisement and competition, as may be prescribed by ordinance; but no contract for any public work or improvement shall be awarded except on condition that the contractor give bond with some bonding company authorized to transact business in Tennessee, as surety, in a sum equal to at least fifty percent (50%) of the contract price of the particular work or improvement for the faithful performance of such contract. In lieu of the bond required in this subsection, the city may, in its sole discretion, allow the following securities or cash to be substituted:

(1) United States Treasury bonds, United States Treasury notes or United States Treasury bills.

(2) General obligation bonds of the State of Tennessee.

(3) Certificates of deposits irrevocably pledged from a state or national bank having its principal office in Tennessee.

(4) An irrevocable letter of credit from a state or national bank having its principal office in Tennessee. The terms and conditions of any letter of credit shall be subject to the approval of the city treasurer. All letters of credit shall be accompanied by an authorization of the contractor to deliver retained funds to the bank issuing the letter.

(5) Cash, provided that if cash is posted, the City shall pay to the contractor interest at the same rate that interest is paid on funds invested in a local government investment pool established pursuant to Tennessee Code Annotated §9-4-704, for the contract period.

(b) The board of mayor and aldermen shall have the power to reject all bids and advertise again, and all advertisements shall contain a reservation of this right.

(c) This section shall not be construed to prohibit any work or improvements by city forces upon authorization by the board of mayor and aldermen. Such authorization shall be based on detailed estimates submitted by the responsible department and approved by the city manager.

(d) No contract for any public work or improvement for more than fifteen thousand dollars (\$15,000) shall be awarded except on condition that the contractor give bond with some bonding company authorized to transact business in Tennessee, as surety for mechanics' liens and materialmen's liens, in a sum equal to at least fifty percent (50%) of the contract price of the particular work or improvement. In lieu of the bond required in this sub-section, the City may, in its sole discretion, allow the following securities or cash to be substituted:

(1) United States Treasury bonds, United States Treasury notes or United States Treasury bills.

(2) General obligation bonds of the state of Tennessee.

(3) Certificates of deposit irrevocably pledged from a state or national bank having its principal office in Tennessee.

(4) An irrevocable letter of credit from a state or national bank having its principal office in Tennessee. The terms and conditions of any letter of credit shall be subject to the approval of the city treasurer. All letters of credit shall be accompanied by an authorization of the contractor to deliver retained funds to the bank issuing the letter.

(5) Cash, provided that if cash is posted, the City shall pay to the contractor interest at the same rate that interest is paid on funds invested in a local government investment pool established pursuant to Tennessee Code Annotated §9-4-704, for the contract period.

SECTION 4. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the governing body of the City of Kingsport. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Kingsport and certified to the secretary of state.

SECTION 5. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 4.